

AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been

 filed in the U.S. District Court Northern District of California on the following ☐ Patents or ☐ Trademarks:

DOCKET NO. C-10-0032-BZ	DATE FILED January 5, 2010	U.S. DISTRICT COURT Office of the Clerk, 450 Golden Gate Ave., 16 th Floor, San Francisco, CA 94102
PLAINTIFF FINISAR CORPORATION		DEFENDANT SOURCE PHOTONICS, INC., ET AL.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2	<i>p 4 - 10 TM Patents</i>	<i>"Pls. See Attached Copy of Complaint"</i>
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wicking	(BY) DEPUTY CLERK Thelma Nudo	DATE January 5, 2010
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 Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

1 by one or more of the claims of the '775 patent and/or that are made overseas by processes that
2 are covered by one or more of the claims of the '775 patent, have committed acts of direct
3 infringement of one or more claims of the '775 patent. These acts constitute violations of 35
4 U.S.C. § 271.

5 45. Defendants have committed acts of contributory and/or inducement of
6 infringement of one or more claims of the '775 patent by selling, supporting, and/or encouraging
7 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
8 not staple articles or commodities suitable for non-infringing uses. On information and belief,
9 Defendants knew or should have known of the '775 patent, at least because Finisar provided
10 notice of the '775 patent to the Defendants prior to some or all of the sales to third parties of
11 optoelectronic transceivers covered by one or more of the claims of the '775 patent. These acts
12 constitute violations of 35 U.S.C. § 271.

13 46. On information and belief, Defendants' infringement of the '775 patent is, has
14 been, and continues to be willful and deliberate. Despite knowing of the '775 patent, the
15 Defendants have continued to directly and indirectly infringe one or more claims of the '775
16 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and
17 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

18 47. As a direct and proximate result of Defendants' infringement of the '775 patent,
19 Finisar has been and continues to be damaged in an amount yet to be determined.

20 THIRD CLAIM FOR RELIEF

21 (Infringement of U.S. Patent No. 6,957,021)

22 48. Finisar realleges and incorporates by reference the allegations stated in paragraphs
23 1 through 47 of this Complaint.

24 49. Defendants, by engaging in the unauthorized manufacture (or causing to be
25 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered
26 by one or more of the claims of the '021 patent and/or that are made overseas by processes that
27 are covered by one or more of the claims of the '021 patent, have committed acts of direct
28 infringement of one or more claims of the '021 patent. These acts constitute violations of 35

1 U.S.C. § 271.

2 50. Defendants have committed acts of contributory and/or inducement of
3 infringement of one or more claims of the '021 patent by selling, supporting, and/or encouraging
4 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
5 not staple articles or commodities suitable for non-infringing uses. On information and belief,
6 Defendants knew or should have known of the '021 patent, at least because Finisar provided
7 notice of the '021 patent to the Defendants prior to some or all of the sales to third parties of
8 optoelectronic transceivers covered by one or more of the claims of the '021 patent. These acts
9 constitute violations of 35 U.S.C. § 271.

10 51. On information and belief, Defendants' infringement of the '021 patent is, has
11 been, and continues to be willful and deliberate. Despite knowing of the '021 patent, the
12 Defendants have continued to directly and indirectly infringe one or more claims of the '021
13 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and
14 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

15 52. As a direct and proximate result of Defendants' infringement of the '021 patent,
16 Finisar has been and continues to be damaged in an amount yet to be determined.

17 **FOURTH CLAIM FOR RELIEF**

18 (Infringement of U.S. Patent No. 7,058,310)

19 53. Finisar realleges and incorporates by reference the allegations stated in paragraphs
20 1 through 52 of this Complaint.

21 54. Defendants, by engaging in the unauthorized manufacture (or causing to be
22 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered
23 by one or more of the claims of the '310 patent and/or that are made overseas by processes that
24 are covered by one or more of the claims of the '310 patent, have committed acts of direct
25 infringement of one or more claims of the '310 patent. These acts constitute violations of 35
26 U.S.C. § 271.

27 55. Defendants have committed acts of contributory and/or inducement of
28 infringement of one or more claims of the '310 patent by selling, supporting, and/or encouraging

1 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
2 not staple articles or commodities suitable for non-infringing uses. On information and belief,
3 Defendants knew or should have known of the '310 patent, at least because Finisar provided
4 notice of the '310 patent to the Defendants prior to some or all of the sales to third parties of
5 optoelectronic transceivers covered by one or more of the claims of the '310 patent. These acts
6 constitute violations of 35 U.S.C. § 271.

7 56. On information and belief, Defendants' infringement of the '310 patent is, has
8 been, and continues to be willful and deliberate. Despite knowing of the '310 patent, the
9 Defendants have continued to directly and indirectly infringe one or more claims of the '310
10 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and
11 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

12 57. As a direct and proximate result of Defendants' infringement of the '310 patent,
13 Finisar has been and continues to be damaged in an amount yet to be determined.

14 **FIFTH CLAIM FOR RELIEF**

15 (Infringement of U.S. Patent No. 6,952,531)

16 58. Finisar realleges and incorporates by reference the allegations stated in paragraphs
17 1 through 57 of this Complaint.

18 59. Defendants, by engaging in the unauthorized manufacture (or causing to be
19 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered
20 by one or more of the claims of the '531 patent and/or that are made overseas by processes that
21 are covered by one or more of the claims of the '531 patent, have committed acts of direct
22 infringement of one or more claims of the '531 patent. These acts constitute violations of 35
23 U.S.C. § 271.

24 60. Defendants have committed acts of contributory and/or inducement of
25 infringement of one or more claims of the '531 patent by selling, supporting, and/or encouraging
26 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
27 not staple articles or commodities suitable for non-infringing uses. On information and belief,
28 Defendants knew or should have known of the '531 patent, at least because Finisar provided

1 notice of the '531 patent to the Defendants prior to some or all of the sales to third parties of
2 optoelectronic transceivers covered by one or more of the claims of the '531 patent. These acts
3 constitute violations of 35 U.S.C. § 271.

4 61. On information and belief, Defendants' infringement of the '531 patent is, has
5 been, and continues to be willful and deliberate. Despite knowing of the '531 patent, the
6 Defendants have continued to directly and indirectly infringe one or more claims of the '531
7 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and
8 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

9 62. As a direct and proximate result of Defendants' infringement of the '531 patent,
10 Finisar has been and continues to be damaged in an amount yet to be determined.

11 **SIXTH CLAIM FOR RELIEF**

12 (Infringement of U.S. Patent No. 7,162,160)

13 63. Finisar realleges and incorporates by reference the allegations stated in paragraphs
14 1 through 62 of this Complaint.

15 64. Defendants, by engaging in the unauthorized manufacture (or causing to be
16 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered
17 by one or more of the claims of the '160 patent and/or that are made overseas by processes that
18 are covered by one or more of the claims of the '160 patent, have committed acts of direct
19 infringement of one or more claims of the '160 patent. These acts constitute violations of 35
20 U.S.C. § 271.

21 65. Defendants have committed acts of contributory and/or inducement of
22 infringement of one or more claims of the '160 patent by selling, supporting, and/or encouraging
23 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
24 not staple articles or commodities suitable for non-infringing uses. On information and belief,
25 Defendants knew or should have known of the '160 patent, at least because Finisar provided
26 notice of the '160 patent to the Defendants prior to some or all of the sales to third parties of
27 optoelectronic transceivers covered by one or more of the claims of the '160 patent. These acts
28 constitute violations of 35 U.S.C. § 271.

1 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and
2 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

3 72. As a direct and proximate result of Defendants' infringement of the '668 patent,
4 Finisar has been and continues to be damaged in an amount yet to be determined.

5 **EIGHTH CLAIM FOR RELIEF**

6 (Infringement of U.S. Patent No. 7,050,720)

7 73. Finisar realleges and incorporates by reference the allegations stated in paragraphs
8 1 through 72 of this Complaint.

9 74. Defendants, by engaging in the unauthorized manufacture (or causing to be
10 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered
11 by one or more of the claims of the '720 patent and/or that are made overseas by processes that
12 are covered by one or more of the claims of the '720 patent, have committed acts of direct
13 infringement of one or more claims of the '720 patent. These acts constitute violations of 35
14 U.S.C. § 271.

15 75. Defendants have committed acts of contributory and/or inducement of
16 infringement of one or more claims of the '720 patent by selling, supporting, and/or encouraging
17 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
18 not staple articles or commodities suitable for non-infringing uses. On information and belief,
19 Defendants knew or should have known of the '720 patent, at least because Finisar provided
20 notice of the '720 patent to the Defendants prior to some or all of the sales to third parties of
21 optoelectronic transceivers covered by one or more of the claims of the '720 patent. These acts
22 constitute violations of 35 U.S.C. § 271.

23 76. On information and belief, Defendants' infringement of the '720 patent is, has
24 been, and continues to be willful and deliberate. Despite knowing of the '720 patent, the
25 Defendants have continued to directly and indirectly infringe one or more claims of the '720
26 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and
27 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

1 77. As a direct and proximate result of Defendants' infringement of the '720 patent,
2 Finisar has been and continues to be damaged in an amount yet to be determined.

3 **NINTH CLAIM FOR RELIEF**

4 (Infringement of U.S. Patent No. RE 36,886)

5 78. Finisar realleges and incorporates by reference the allegations stated in paragraphs
6 1 through 77 of this Complaint.

7 79. Defendants, by engaging in the unauthorized manufacture (or causing to be
8 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered
9 by one or more of the claims of the '886 patent and/or that are made overseas by processes that
10 are covered by one or more of the claims of the '886 patent, have committed acts of direct
11 infringement of one or more claims of the '886 patent. These acts constitute violations of 35
12 U.S.C. § 271.

13 80. Defendants have committed acts of contributory and/or inducement of
14 infringement of one or more claims of the '886 patent by selling, supporting, and/or encouraging
15 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
16 not staple articles or commodities suitable for non-infringing uses. On information and belief,
17 Defendants knew or should have known of the '886 patent. These acts constitute violations of 35
18 U.S.C. § 271.

19 81. Such infringement has injured and damaged Finisar. Unless enjoined by this
20 Court, Defendants will continue their infringement, irreparably injuring Finisar.

21 82. As a direct and proximate result of Defendants' infringement of the '886 patent,
22 Finisar has been and continues to be damaged in an amount yet to be determined.

23 **TENTH CLAIM FOR RELIEF**

24 (Infringement of U.S. Patent No. RE 40,150)

25 83. Finisar realleges and incorporates by reference the allegations stated in paragraphs
26 1 through 82 of this Complaint.

27 84. Defendants, by engaging in the unauthorized manufacture (or causing to be
28 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered

1 by one or more of the claims of the '150 patent and/or that are made overseas by processes that
2 are covered by one or more of the claims of the '150 patent, have committed acts of direct
3 infringement of one or more claims of the '150 patent. These acts constitute violations of 35
4 U.S.C. § 271.

5 85. Defendants have committed acts of contributory and/or inducement of
6 infringement of one or more claims of the '150 patent by selling, supporting, and/or encouraging
7 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
8 not staple articles or commodities suitable for non-infringing uses. On information and belief,
9 Defendants knew or should have known of the '150 patent. These acts constitute violations of 35
10 U.S.C. § 271.

11 86. Such infringement has injured and damaged Finisar. Unless enjoined by this
12 Court, Defendants will continue their infringement, irreparably injuring Finisar.

13 87. As a direct and proximate result of Defendants' infringement of the '150 patent,
14 Finisar has been and continues to be damaged in an amount yet to be determined.

15 **ELEVENTH CLAIM FOR RELIEF**

16 (Infringement of U.S. Patent No. RE 40,154)

17 88. Finisar realleges and incorporates by reference the allegations stated in paragraphs
18 1 through 87 of this Complaint.

19 89. Defendants, by engaging in the unauthorized manufacture (or causing to be
20 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered
21 by one or more of the claims of the '154 patent and/or that are made overseas by processes that
22 are covered by one or more of the claims of the '154 patent, have committed acts of direct
23 infringement of one or more claims of the '154 patent. These acts constitute violations of 35
24 U.S.C. § 271.

25 90. Defendants have committed acts of contributory and/or inducement of
26 infringement of one or more claims of the '154 patent by selling, supporting, and/or encouraging
27 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are
28 not staple articles or commodities suitable for non-infringing uses. On information and belief,

1 Defendants knew or should have known of the '154 patent. These acts constitute violations of 35
2 U.S.C. § 271.

3 91. Such infringement has injured and damaged Finisar. Unless enjoined by this
4 Court, Defendants will continue their infringement, irreparably injuring Finisar.

5 92. As a direct and proximate result of Defendants' infringement of the '154 patent,
6 Finisar has been and continues to be damaged in an amount yet to be determined.


7 **PRAYER FOR RELIEF**

8 WHEREFORE, Finisar prays that this Court enter judgment as follows:

- 9 (A) Adjudicating and declaring that Defendants have infringed, actively induced
10 infringement of, and/or contributorily infringed the Patents-In-Suit;
- 11 (B) Preliminarily and permanently enjoining the Defendants, their officers, agents,
12 servants, employees, attorneys and all persons in active concert or participation
13 with them from further infringement of the Patents-in-Suit or, to the extent not so
14 enjoined, ordering Defendants to pay compulsory ongoing royalties for any
15 continuing infringement of the Patents-in-Suit;
- 16 (C) Ordering that Defendants account, and pay actual damages (but no less than a
17 reasonable royalty), to Finisar for Defendants' infringement of the Patents-in-Suit;
- 18 (D) Declaring that Defendants are willfully infringing one or more of the Patents-in-
19 Suit and ordering that Defendants pay treble damages to Finisar as provided by 35
20 U.S.C. § 284;
- 21 (E) Ordering that Defendants pay Finisar's costs, expenses, and interest, including
22 prejudgment interest, as provided for by 35 U.S.C. § 284;
- 23 (F) Declaring that this is an exceptional case and awarding Finisar its attorneys' fees
24 and expenses as provided for by 35 U.S.C. § 285;
- 25 (G) Granting Finisar such other and further relief as the Court deems just and
26 appropriate, or that Finisar may be entitled to as a matter of law or equity.
27
28

1 Dated: January 5, 2010

MORGAN, LEWIS & BOCKIUS LLP

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4 By 
5 Michael J. Lyons
6 Attorneys for Plaintiff
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ADR

ORIGINAL FILED

JAN - 5 2010

Richard W. Wlasing
Clerk, U.S. District Court
Northern District of California
San Jose

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

C10 00032 BZ
Case No.

17 FINISAR CORPORATION,
18 a Delaware corporation,

19 Plaintiff,

20 v.

21 SOURCE PHOTONICS, INC., a Delaware
22 corporation, MRV COMMUNICATIONS,
23 a Delaware corporation,
24 NEOPHOTONICS CORPORATION, a
25 Delaware corporation, and OPLINK
26 COMMUNICATIONS INC., a Delaware
27 corporation,

28 Defendants.

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

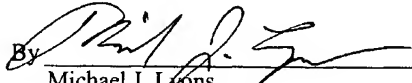
DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Finisar hereby requests a trial by jury.

Dated: January 5, 2010

MORGAN, LEWIS & BOCKIUS LLP

By 
Michael J. Lyons
Attorneys for Plaintiff

1 Plaintiff FINISAR CORPORATION ("Finisar") alleges as follows:

2 **PARTIES**

3 1. Plaintiff Finisar is a Delaware corporation with its principal place of business at
4 1389 Moffett Park Drive, Sunnyvale, California 94089-1134. Finisar is qualified and duly
5 authorized to conduct business in the State of California.

6 2. Defendant Source Photonics, Inc. ("Source Photonics") is a Delaware corporation
7 doing business in this judicial district, and has a principal place of business at 20550 Nordhoff
8 Street, Chatsworth, California 91311. Source Photonics has a sales office in the Northern District
9 of California at 530 Lakeside Drive, Suite 190, Sunnyvale, California 94085. On information and
10 belief, Source Photonics was formed by the merger of two predecessor companies, LuminentOIC,
11 Inc. and Fiberxon Inc. On information and belief, Source Photonics is a wholly-owned subsidiary
12 of MRV.

13 3. Defendant MRV Communications ("MRV") is a Delaware corporation doing
14 business in this judicial district, and has a principal place of business at 20415 Nordhoff Street,
15 Chatsworth, California 91311.

16 4. Defendant NeoPhotonics Corporation ("NeoPhotonics") is a Delaware corporation
17 doing business in this judicial district, and has a principal place of business at 2911 Zanker Road,
18 San Jose, California 95134.

19 5. Defendant Oplink Communications Inc. ("Oplink") is a Delaware corporation
20 doing business in this judicial district, and has a principal place of business at 46335 Landing
21 Parkway, Fremont, California 94538.

22 6. Defendants Source Photonics, MRV, NeoPhotonics, and Oplink are referred to
23 collectively herein as the "Defendants."

24 **JURISDICTION AND VENUE**

25 7. This is a civil action arising under the patent laws of the United States, 35 U.S.C.
26 §§ 1 *et seq.* This Court has jurisdiction over the subject matter of this action pursuant to
27 28 U.S.C. § 1331 and 1338(a).

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) & (c) and 1400(b).

10. Under Civil L. R. 3-2(c), this action shall be assigned on a district-wide basis, notwithstanding the fact that a substantial part of the events that give rise to the claims alleged herein occurred in Santa Clara County, in the San Jose Division of this Court.

11. Finisar is the sole owner of U.S. Patent No. 5,019,769 (the "769 patent"), issued on May 28, 1991, titled "Semiconductor Laser Diode Controller and Laser Diode Biasing Control Method." A true and correct copy of the '769 patent is attached as Exhibit A.

13. Finisar is the sole owner of U.S. Patent No. 6,957,021 (the “‘021 patent”), issued on October 18, 2005, titled “Optical Transceiver with Memory Mapped Locations.” A true and correct copy of the ‘021 patent is attached to this Complaint as Exhibit C.

15. Finisar is the sole owner of U.S. Patent No. 6,952,531 (the “531 patent”), issued on October 4, 2005, titled “System and Method for Protecting Eye Safety During Operation of a

1 Fiber Optic Transceiver." A true and correct copy of the '531 patent is attached to this Complaint
2 as Exhibit E.

3 16. Finisar is the sole owner of U.S. Patent No. 7,162,160 (the "'160 patent'"), issued
4 on January 9, 2007, titled "System and Method for Protecting Eye Safety During Operation of a
5 Fiber Optic Transceiver." A true and correct copy of the '160 patent is attached to this Complaint
6 as Exhibit F.

7 17. Finisar is the sole owner of U.S. Patent No. 7,184,668 (the "'668 patent'"), issued
8 on February 27, 2007, titled "System and Method for Protecting Eye Safety During Operation of
9 a Fiber Optic Transceiver." A true and correct copy of the '668 patent is attached to this
10 Complaint as Exhibit G.

11 18. Finisar is the sole owner of U.S. Patent No. 7,050,720 (the "'720 patent'"), issued
12 on May 23, 2006, titled "Integrated Memory Mapped Controller Circuit for Fiber Optics
13 Transceiver." A true and correct copy of the '720 patent is attached to this Complaint as Exhibit
14 H.

15 19. Finisar is the sole owner of U.S. Patent No. RE 36,886 (the "'886 patent'"), filed on
16 January 12, 1995, issued on January 21, 1997, and reissued on October 3, 2000, titled "Fiber
17 Optic Module." A true and correct copy of the '886 patent is attached to this Complaint as
18 Exhibit I.

19 20. Finisar is the sole owner of U.S. Patent No. RE 40,150 (the "'150 patent'"), filed on
20 January 12, 1995, issued on January 21, 1997, and reissued on March 11, 2008, titled "Fiber
21 Optic Module." A true and correct copy of the '150 patent is attached to this Complaint as
22 Exhibit J.

23 21. Finisar is the sole owner of U.S. Patent No. RE 40,154 (the "'154 patent'"), filed on
24 January 12, 1995, issued on January 21, 1997, and reissued on March 18, 2008, titled "Fiber
25 Optic Module." A true and correct copy of the '154 patent is attached to this Complaint as
26 Exhibit K.

27 22. The '769 patent, '775 patent, '021 patent, '310 patent, '531 patent, '160 patent,
28 '668 patent, '720 patent, '886 patent, '150 patent, and '154 patent are referred to collectively

herein as the "Patents-In-Suit." A subset of the Patents-In-Suit including the '769 patent, '775 patent, '021 patent, '310 patent, '531 patent, '160 patent, '668 patent, and '720 patent are referred to collectively herein as the "Digital Diagnostics Patents." Another subset of the Patents-In-Suit including the '886 patent, '150 patent, and '154 patent are referred to collectively herein as the "Optoelectronic Module Patents."

FINISAR'S OPTOELECTRONIC TRANSCEIVER TECHNOLOGY

23. Optoelectronic transceivers are used to provide the electrical-to-optical and optical-to-electrical conversion required for modern communication over fiber optic cables. Optoelectronic transceivers are a vital component of the high-speed broadband revolution that has transformed the way consumers all over the world watch television, surf the internet, and communicate.

24. Finisar is a leading supplier of optoelectronic transceivers and invests substantially in research and development of new and innovative technologies and products. Finisar has been a pioneer in the optoelectronics industry, developing, for example, automated transceiver calibration methods and adding diagnostic intelligence to its transceivers.

25. Finisar developed the digital processor controlled laser diode calibration technology claimed in the '769 patent directed to automation of the process of selecting the drive current level of the laser diode.

26. Finisar engineers later developed an improved digital diagnostics technology claimed in the other Digital Diagnostics Patents directed to real-time monitoring of transceiver operating parameters with dramatically improved diagnostic data storage and host access capabilities, helping to identify abnormal and potentially unsafe operating conditions, simplifying maintenance, and enhancing reliability.

27. Optoelectronic high-speed networks using optoelectronic transceivers with digital diagnostic monitoring features are now in widespread use, in no small part because of the efforts of Finisar. Finisar has worked to bring its advanced technology to the entire industry not only by designing new products, but also by its participation in and commitment to working with industry committees to create standards and common specifications for transceiver digital diagnostics.

1 28. One such specification is the SFF-8472 specification, titled "Digital Diagnostic
2 Monitoring Interface for Optical Transceivers," which was published by the Small Form Factor
3 Committee. This document specifies a digital diagnostic feature set for Small Form Factor
4 Pluggable ("SFP") transceivers. It defines an enhanced digital diagnostics monitoring interface
5 for optical transceivers which allows real-time access to device operating parameters.

6 29. The SFF-8472 specification was developed at least in part by Finisar employees
7 and relies upon Finisar's inventions.

8 30. Industry adoption of the SFF-8472 specification was swift. SFF-8472-compliant
9 transceivers are now widely available.

10 31. Similar digital diagnostic capabilities have been incorporated into other widely
11 used industry multi-source agreement specifications and/or products, including but not limited to
12 the Enhanced Small Form Factor Pluggable ("SFP+"), 10 Gigabit Small Form Factor Pluggable
13 ("XFP"), DWDM Pluggable Transceiver ("DWDM"), XENPAK, Broadband Passive Optical
14 Network ("BPON"), Gigabit Passive Optical Network ("GPON"), and Gigabit Ethernet Passive
15 Optical Network ("GEAPON") specifications and/or products. For example, the XFP specification
16 states that the mandatory XFP 2-wire serial interface is "modeled largely after the digital
17 diagnostics monitoring interface proposed for the SFP and GBIC optical transceivers and defined
18 in SFF draft document SFF-8472 Rev 9.3"

19 32. All of the major transceiver manufacturers, including the Defendants, make
20 transceivers that include digital diagnostics. The widespread acceptance and use of Finisar's
21 digital diagnostics technology by numerous standards bodies and competitors demonstrates the
22 industry's recognition of the value and importance of Finisar's innovation.

23 33. Finisar has licensed its Digital Diagnostics Patents to other manufacturers in the
24 industry.

25 34. Finisar has also provided notice of its Digital Diagnostics Patents portfolio, and
26 offered licenses to this portfolio, to others in the industry, including each of the Defendants.
27 MRV and Source Photonics' predecessor, Luminent, Inc., first received notice of one or more of
28 the Digital Diagnostics Patents before March 28, 2003. NeoPhotonics first received notice of one

1 or more of the Digital Diagnostics Patents on or before September 26, 2006. Oplink first received
2 notice of one or more of the Digital Diagnostics Patents on or before December 13, 2005. Each
3 of the Defendants has refused to license Finisar's Digital Diagnostics Patents.

4 35. Finisar also recognizes the technical contributions of other companies as
5 demonstrated by its purchase of the Optoelectronic Module Patents from Matsushita Electric
6 Industrial Co., Ltd.

7 THE ACCUSED PRODUCTS

8 36. The Accused Products include, but are not limited to, Defendants' optoelectronic
9 transceivers that (i) are calibrated under processor control pursuant to the claims of the '769
10 patent, including for example and without limitation, NeoPhotonics' SFF, SFP, 1x9 SC, 2x9 SC,
11 CWDM, DWDM, XFP, GPON, P2P BiDi, and GEAPON products, Oplink's GBIC, SFF, SFP,
12 1x9, 2x9, XFP, SFP+, and PON products, Source Photonics' GBIC, SFF, SFP, 1x9, SFP+, XFP,
13 BPON, GPON, and GEAPON products, and MRV's SFP, Xenpak, XFP, and SFP+ products; (ii)
14 are compliant with SFF-8472 or otherwise include digital diagnostics, including for example and
15 without limitation, NeoPhotonics' SFP, CWDM, DWDM, XFP, GPON, P2P BiDi, and GEAPON
16 products, Oplink's SFP, XFP, and SFP+ products, Source Photonics' SFP, SFP+, XFP, BPON,
17 GPON, and GEAPON products, and MRV's SFP, Xenpak, XFP, and SFP+ products; and/or (iii)
18 include the claimed features of the Optoelectronic Module Patents, including for example and
19 without limitation, NeoPhotonics' SFF, SFP, 1x9 SC, 2x9 SC, CWDM, DWDM, XFP, GPON,
20 P2P BiDi, and GEAPON products, Oplink's GBIC, SFF, SFP, 1x9, 2x9, XFP, SFP+, and PON
21 products, Source Photonics' GBIC, SFF, SFP, 1x9, SFP+, XFP, BPON, GPON, and GEAPON
22 products, and MRV's SFP, XFP, and SFP+ products.

23 FIRST CLAIM FOR RELIEF

24 (Infringement of U.S. Patent No. 5,019,769)

25 37. Finisar realleges and incorporates by reference the allegations stated in paragraphs
26 1 through 36 of this Complaint.

27 38. Defendants, by engaging in the unauthorized manufacture (or causing to be
28 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered

1 by one or more of the claims of the '769 patent and/or that are made overseas by processes that
2 are covered by one or more of the claims of the '769 patent, have committed acts of direct
3 infringement of one or more claims of the '769 patent. These acts constitute violations of 35
4 U.S.C. § 271.

5 39. Defendants have committed acts of contributory and/or inducement of
6 infringement of one or more claims of the '769 patent by selling, supporting, and/or encouraging
7 infringing methods of use of the Accused Products to third parties, including but not limited to
8 customers and end-users. Such optoelectronic transceivers are not staple articles or commodities
9 suitable for non-infringing uses. On information and belief, Defendants knew or should have
10 known of the '769 patent, at least because Finisar provided notice of the '769 patent to the
11 Defendants prior to some or all of the sales to third parties of optoelectronic transceivers covered
12 by one or more of the claims of the '769 patent. These acts constitute violations of 35 U.S.C. §
13 271.

14 40. On information and belief, Defendants' infringement of the '769 patent is, has
15 been, and continues to be willful and deliberate. Despite knowing of the '769 patent, the
16 Defendants have continued to directly and indirectly infringe one or more claims of the '769
17 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and
18 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

19 41. Such infringement has injured and damaged Finisar. Unless enjoined by this
20 Court, Defendants will continue their infringement, irreparably injuring Finisar.

21 42. As a direct and proximate result of Defendants' infringement of the '769 patent,
22 Finisar has been and continues to be damaged in an amount yet to be determined.

23 **SECOND CLAIM FOR RELIEF**

24 (Infringement of U.S. Patent No. 7,079,775)

25 43. Finisar realleges and incorporates by reference the allegations stated in paragraphs
26 1 through 42 of this Complaint.

27 44. Defendants, by engaging in the unauthorized manufacture (or causing to be
28 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered